IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 19596 of 2004

Between:

The Siddiqui Aided Schools' Committee Sirvel, Kurnool District

rep., by its President & Correspondent,
K.J.Saheb Basha Siddiqui, s/o Moinuddin Siddiqui,

aged 56 years, Sirvel, Kurnool District.

..... PETITIONER

AND

1 The District Educational Officer, Kurnool, Kurnool District.
2 The Director of School Education, A.P.,Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass orders particularly one in the nature of writ of mandamus declaring the inaction of the respondents in approving the transfers of the Teachers made by the petitioner vide its order dt.28-6-2004 and consequently returning the teaching grant bills by the 1st respondent vide Rc.No.1050/C4/2004 dt.28-8-2004 as arbitrary, illegal, misconceived discriminatory violative of Articles 19 and 21 of the Constitution of India and contrary to the instructions of the 2nd respondent circulated vide Rc.No.3267/D1/79 dt.29-2-80 and consequently direct the respondents to approve the transfers of the Teachers made by the petitioner Schools Committee.

Counsel for the Petitioner: MR.KASAJAGANMOHAN REDDY

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court made the following:

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ORDER:

The petitioner is a Committee of group of schools in Kurnool District. The committee affected certain transfers of teachers from one school to another school under its control within Kurnool District, through the proceedings dated 28.06.2004, on administrative grounds.

2. The petitioner submits that all the teachers joined in the respective places and the orders of transfer were also communicated to the 1st respondent. He contends that as per the instructions of the Government, there are no restrictions on the management for transfer of teachers from one school to another school under its management, by treating all the schools as one unit. Therefore, the transfer of teachers from one school to another school will not affect their seniority.

3. The grievance of the petitioner is that when he sent the bills for teaching grant for payment of salaries, the grant was made only in respect of five teachers, and the bills were returned in respect of eight teachers, through the proceedings dated 28.08.2004, on the ground that the management has not followed the orders of the Director of School Education dated 29.02.1980 and 08.09.2003. Against the proceedings of the

1st respondent dated 28.08.2004, the petitioner made a representation that the orders of the 1st respondent dated 28.08.2004 are contrary to the instructions of the Director of School Education. The 1st respondent, without examining the representation of the petitioner, again returned the bills through the proceedings dated 30.09.2004 stating that the transfer orders should be approved by the competent authority. The petitioner, being aggrieved by the return of the bills for the second time, approached this Court through this writ petition, seeking to declare that the action of the 1st respondent through the proceedings dated 28.06.2004, and the return of the bills dated 28.08.2004, as arbitrary, illegal, discriminatory and violative of

articles 19 and 21 of the Constitution of India, and consequently to direct the respondents to approve the transfer of the teachers made by the petitioner.

4. The learned counsel for the respondents submits that as per the proceedings of the Director General of School Education, dated 28.10.1992, ratification orders are required. She further submits that as per the proceedings of the Commissioner and Director of School Education, Hyderabad, dated 08.09.2003, whenever there is transfer of teachers from one school to another school under the same management, the approval by the 1st respondent is essential. She further submits that there were representations from the Aided Teachers Association dated 05.04.2004 regarding the transfers and there were certain allegations against the management that there are illegalities in the transfer proceedings and that the matter is also under enquiry.

5. After carefully verifying the record, it is seen that the petitioner did not address either the 1st respondent or the Commissioner and Director of School Education, seeking either permission or ratification as required under the Rules, except marking the copy of the transfer proceedings. The

1st respondent was therefore right in raising an objection through his proceedings dated 28.06.2004, regarding the release of the grant for the salaries of eight teachers. It is for the petitioner to take necessary steps to comply with the directions, issued by the Commissioner and Director of School Education from time to time, and the instructions, given by the 1st respondent. Without complying those instructions, the petitioner cannot get any relief from a Writ Court in the form of Writ of Mandamus.

6. In the light of the above circumstances, I do not find any merit in the writ petition, and there is no material to show that the proceedings of the 1st respondent dated 28.06.2004 and the return of bills dated 28.08.2004 as illegal, arbitrary and violative of articles 19 and 21 of the Constitution of India.

7. The Writ Petition is, accordingly, dismissed. The petitioner is at liberty to verify various instructions given by the concerned authorities and make necessary proposals in compliance of those instructions to get necessary orders favourable to it. No costs.

Note:

Issue CC in two days

B/o

dsr

ASSISTANT REGISTRAR

To:

1. The District Educational Officer,

Kurnool, Kurnool District

2. The Director of School Education,

A.P. Hyderabad

3. Two CCs to the Government Pleader for Education,

High Court Buildings, Hyderabad

4. Two CD copies.